

# Rules and Regulations

Federal Register

Vol. 84, No. 102

Tuesday, May 28, 2019

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Chapter I

[NRC-2016-0185]

#### Processing Fitness-for-Duty Drug and Alcohol Cases

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Policy revision; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing a revision to its Enforcement Policy (the Policy). The NRC is revising Section 4.1, "Considerations in Determining Enforcement Actions Involving Individuals," of the Policy to indicate that the NRC typically will not consider Fitness-for-Duty (FFD) Drug and Alcohol (D&A) related violations for enforcement unless the licensee's FFD program has apparent deficiencies.

**DATES:** The policy revision is effective on May 28, 2019.

**ADDRESSES:** Please refer to Docket ID NRC-2016-0185 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2016-0185. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact

the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section.

- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

**FOR FURTHER INFORMATION CONTACT:**

David Furst, Office of Enforcement; telephone: 301-287-9087; email: [David.Furst@nrc.gov](mailto:David.Furst@nrc.gov); U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

On January 31, 2016, the NRC staff submitted to the Commission SECY-16-0009, "Recommendations Resulting from the Integrated Prioritization and Re-Baselining of Agency Activities," (ADAMS Package Accession No. ML16028A189). Item 101 in Enclosure 1 of SECY-16-0009 included the NRC staff's recommendations for creating efficiencies in the Enforcement Process, in part by reducing FFD case processing.

In developing potential efficiencies in the enforcement program, the NRC staff concluded that not processing routine cases involving D&A issues would reduce NRC staff resources without impacting safety and security because 10 CFR part 26 already requires licensees to disposition individual violations of their FFD D&A procedures.

The Commission approved the NRC staff's recommendation to reduce FFD case processing in the Staff Requirements Memorandum for SECY-16-0009, dated April 13, 2016 (ADAMS Accession No. ML16104A158).

On October 5, 2016, the NRC published a document in the **Federal Register** (81 FR 69010) soliciting public comments on the proposed change to the Policy. Twelve stakeholders provided comments on the proposed revision. While the Nuclear Energy Institute commented on behalf of the nuclear energy industry that they supported the NRC staff's proposed revision to the Policy, not all stakeholders agreed with the proposed revision to the Policy. The public comments and staff's responses to those

comments are available in ADAMS under Accession No. ML16355A045.

On May 8, 2017, the staff submitted SECY-17-0059 (ADAMS Accession No. ML16355A048) requesting Commission approval to issue a revised Policy, establishing that the NRC will not typically consider FFD D&A related violations involving non-licensed individuals for enforcement action unless there is an apparent deficiency in the licensee's FFD program. On April 18, 2019, the Commission issued Staff Requirements Memorandum for SECY-17-0059, "Proposed Enforcement Policy Revision for Processing Fitness-For-Duty Cases Resulting from Site Fitness-For-Duty Drug and Alcohol Violations by Individuals" (ADAMS Accession No. ML19108A476), approving the staff's proposed revision to the Policy. The Commission also approved the staff's specific, proposed implementation of this change, through the addition of a new paragraph to Section 4.1 of the NRC's Policy.

#### II. Revision to the NRC Enforcement Policy

This policy revision is being implemented by adding the following paragraph at the end of Section 4.1, "Considerations in Determining Enforcement Actions Involving Individuals:"

For FFD violations involving non-licensed individuals who violate drug and alcohol provisions of site FFD programs, which are explicitly described in § 26.75, "Sanctions," the NRC will not typically consider FFD drug and alcohol-related violations for enforcement action unless there is an apparent deficiency in the licensee's FFD program to take the required sanctions against the individual(s) or deficiencies in implementation of the licensee FFD program.

The revision to the Policy is available in ADAMS under Accession No. ML19123A129.

#### III. Paperwork Reduction Act

This revision to the Policy does not contain any new or amended collections of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing collections of information were approved by the Office of Management (OMB) and Budget, approval number 3150-0136.

#### Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond

to, a request for information or an information collection requirement unless the document displays a currently valid OMB control number.

#### IV. Congressional Review Act

This policy is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, OMB has not found it to be a major rule as defined in the Congressional Review Act.

Dated at Rockville, Maryland, this 21st day of May 2019.

For the Nuclear Regulatory Commission.

**Annette L. Vietti-Cook,**

*Secretary of the Commission.*

[FR Doc. 2019–11009 Filed 5–24–19; 8:45 am]

BILLING CODE 7590–01–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA–2018–1074; Airspace Docket No. 18–AWP–29]

RIN 2120–AA66

#### Amendment of Class E Airspace; Hawaiian Islands, HI

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action modifies the Hawaiian Islands Class E airspace extending upward from 1,200 feet and 5,500 feet above the surface of the earth by removing that portion that extends beyond the Territorial Sea. This action supports the operation of Instrument Flight Rules (IFR) under standard instrument approach and departure procedures in the Hawaiian Islands, for the safety and management of aircraft within the National Airspace System.

**DATES:** Effective 0901 UTC, August 15, 2019. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

**ADDRESSES:** FAA Order 7400.11C, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at [http://www.faa.gov/air\\_traffic/publications/](http://www.faa.gov/air_traffic/publications/). For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the

National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

#### FOR FURTHER INFORMATION CONTACT:

Richard Roberts, Federal Aviation Administration, Operations Support Group, Western Service Center, 2200 S. 216th Street, Des Moines, WA 98198; telephone (206) 231–2245.

#### SUPPLEMENTARY INFORMATION:

##### Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends Class E airspace extending upward from 1,200 feet and 5,500 feet above the surface for the Hawaiian Islands, HI, to correct an error in which US airspace extends into international airspace.

##### History

The FAA published a notice of proposed rulemaking in the **Federal Register** (84 FR 7837; March 5, 2019) for Docket No. FAA–2018–1074 to modify Class E airspace extending upward from 1,200 feet and 5,500 feet above the surface of the earth for the Hawaiian Islands, HI. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11C, dated August 13, 2018, and effective September 15, 2018, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

##### Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11C, Airspace Designations and

Reporting Points, dated August 13, 2018, and effective September 15, 2018. FAA Order 7400.11C is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11C lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

##### The Rule

The FAA is amending Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying Class E airspace extending upward from 1,200 feet and 5,500 feet above the surface of the earth. The FAA identified that the Hawaiian Islands Class E airspace was established, in error, beyond the United States Territorial Sea and into international airspace. The Territorial Sea of the United States was defined by Presidential Proclamation number 5928, on December 27, 1988, as that area extending to 12 nautical miles beyond the land territory and internal waters of the United States and the airspace above it. This action will modify the Class E Airspace extending upward from 1,200 feet above the surface of the earth by adjusting the airspace's outer boundary to coincide with the Hawaiian Islands' Territorial Sea and remove the Class E airspace that extends upward from 5,500 feet above the surface of the earth. This action removes references to the Hilo and South Kauai VORTACs in the legal description for the Class E airspace extending upward from 1,200 feet. The airspace is being redesigned without the use of these references. This legal description will establish the Hawaiian Islands as an archipelagic whole consistent with the definition established in the Constitution of the State of Hawaii. This designation includes all islands, together with their appurtenant reefs and territorial and archipelagic waters, included in the Territory of Hawaii on the date of enactment of the Admission Act, except the atoll known as Palmyra Island, together with its appurtenant reefs and territorial waters; but this State shall not be deemed to include the Midway Islands, Johnston Island, Sand Island (offshore from Johnston Island) or Kingman Reef, together with their appurtenant reefs and territorial waters. This action is being submitted coincidental with an FAA proposal, submitted on April 11, 2018 (83 FR 15521), to establish Hawaiian Islands' High and Low Offshore Airspace Areas within international airspace. The Offshore Airspace would extend from the Hawaiian Islands' Territorial Sea outward to the boundary of the Flight Information Region. The offshore airspace will provide for the application